

ANGELA BASHAM,)
)
Plaintiff,)
)
vs.) Case No. 4:15 CV 30 CDP
)
MIDLAND FUNDING, LLC, et al.,)
)
Defendants.)

Defendants removed this case on the basis of federal question jurisdiction and now move to dismiss it on the ground that plaintiff's *pro se* state court petition does not comply with Fed. R. Civ. P. 8, which requires a short and plain statement of plaintiff's claims. As plaintiff was not required to comply with the Federal Rules of Civil Procedure when she filed her petition in state court, I can hardly dismiss her case on this basis. However, plaintiff's petition is confusing and seems to contain allegations not directed at the named defendants. In addition, plaintiff pleads state law claims for fraud, which are required to be pled with particularity whether federal or state rules apply. The Court's own review of the petition also reveals that some of plaintiff's federal claims may be barred by the applicable statutes of limitations governing these claims. In addition, the Court has real concerns about the viability of plaintiff's claims for damages to her reputation

given her current status before me on probation for tax fraud. United States v. Basham, 4:10CR118 CDP. For all these reasons, the Court will grant plaintiff's alternative request for 30 days to file an amended complaint in an attempt to cure the deficiencies in her pleading. Of course, should plaintiff choose to dismiss her federal claims, the Court could – and in this case, would – exercise its discretion to remand the remaining state law claims back to state court for resolution without deciding the sufficiency of the pleadings or the merits of plaintiff's cause.¹ However, if plaintiff intends to remain in federal court and represent herself, then she must comply with all local and Federal Rules of Civil Procedure. As is relevant here, that means she must file a comprehensible, amended complaint which plainly states claims against the named defendants with sufficient detail and supported by facts as is required by law.


Accordingly,

IT IS HEREBY ORDERED that defendants' motion to dismiss [#10] is denied in part and denied as moot in part as stated above.

IT IS FURTHER ORDERED that plaintiff's request for 30 days to file an amended complaint [#12-2] is granted, and plaintiff shall have 30 days from the date of this Memorandum and Order to either file an amended complaint in

¹ Any dismissal of federal claims would be treated as a motion for dismissal if Court approval is required at that time.

compliance with this Memorandum and Order or seek dismissal of her federal claims.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 26th day of February, 2015.